THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.NO.1057 OF 2006

Dt.24.1.2006

Between:

M/s.Sri Murali Spinning Mills Ltd.

Hyderabad, rep. by its Director

And another … Petitioners

And

The Assistant P.F. Commissioner,

E.P.F.Organisation,

Kadapa, and another. … Respondents

ORDER:

This writ petition is filed seeking writ of mandamus declaring the action of the 2nd respondent in issuing the demand notice No.AP/2481/SRO/CDP/Recy/CTR/2005/395 dated 16.11.2005 and the consequential notice to warrant of arrest in Form No.EPF/CP-25/ 2481/CDP/Recovery/05/434 dated 5.12.2005 issued by the 2nd respondent as illegal and arbitrary and consequently set aside the said demand notice dated 16.11.2005.

It is stated that Sri Murali Spinning Mills Limited (formerly Sree Venkatachalapathi Mills Limited0 had been engaged in manufacturing cotton yarn spinning with its plant located at Tirupathi having its registered office at Hyderabad. The present management has taken over the unit in the month of September, 1988. As there

are some outstanding dues payable to the respondent Organization, the petitioner settled with the Department to pay the outstanding dues after examining the records which comes to Rs.4,09,122/- and the same has been permitted to be paid in instalments. Even after payment of the said amount, the 2nd respondent demanded the sum of Rs.2,71,647/- vide his letter dated 16.11.2005 mentioning the certificate No.RRC.No.1/2005-06 dated 11.11.2005. It is stated that the petitioner never received the said certificate and therefore the petitioner gave a detailed reply by registered post on 23.11.2005 intimating the respondents that there are no arrears of amount up to 31.3.1990. It is also informed that the plant of the petitioner was closed due to labour strike and that an amount of Rs.95,036/- was not paid pertaining to the period from 1.7.1997 to 24.7.1997. Thereafter, the 2nd respondent issued the show cause notice dated 5.12.2005, which was served on the petitioner on 8.12.2005 as to why the petitioner shall not be arrested for non-payment of provident fund arrears. It is stated that the petitioner on the threat of arrest paid the sum of Rs.25,000/- towards part payment and paid another sum of Rs.1,00,000/- in cash and also paid Rs.40,000/- and Rs.50,000/- by way of demand drafts and the balance amount of Rs.56,647/- by way of postdated cheque dated 25.1.2006. It is stated that without furnishing any details and without settling the amounts the respondents highhandedly collected the said amounts.

Heard the learned counsel for the petitioners and the learned Standing Counsel appearing on behalf of the respondents.

Having regard to the facts and circumstances of the case, I am of the opinion that it is just and proper to direct the respondents to consider and dispose of the representation of the petitioner dated 12.1.2006 which was made in continuation of the earlier representations for reconciliation of the accounts. Accordingly, the 2nd respondent is directed to consider and dispose of the said representations of the petitioner after reconciliation and pass appropriate orders in accordance with law. Till then, the postdated cheque for the sum of

Rs.56,647/- dated 25.1.2006 may not be encashed.

The writ petition is disposed of accordingly. No costs.

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(V.ESWARAIAH, J.)

24.1.2006

Note: Communicate operative portion by

Wire at party's cost.

B.O.

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